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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
09/845,066	05/07/2001	Bruce A. Kehr	20010427	9510	
20277 759	90 07/28/2006		EXAMINER		
	T WILL & EMERY	NAJARIAN, LENA			
600 13TH STREET, N.W. WASHINGTON, DC 20005-3096			ART UNIT	PAPER NUMBER	
,			3626	3626	
				DATE MAIL ED: 07/28/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
Office Action Summany	09/845,066	KEHR ET AL.				
Office Action Summary	Examiner	Art Unit				
	Lena Najarian	3626				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA  - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication.  - If NO period for reply is specified above, the maximum statutory period w  - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be tim ill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).				
Status						
1)⊠ Responsive to communication(s) filed on 18 Ap	oril 2006					
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
• •	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.					
closed in accordance with the practice under L	x parte Quayle, 1000 O.D. 11, 40	,0 O.G. 210.				
Disposition of Claims						
4) Claim(s) 38-82 is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.	<u></u>					
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Application Papers	·					
	_					
9) The specification is objected to by the Examiner.						
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of:						
	1. Certified copies of the priority documents have been received.					
2. Certified copies of the priority documents have been received in Application No						
	3. Copies of the certified copies of the priority documents have been received in this National Stage					
application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)						
1) Notice of References Cited (PTO-892)	4) Interview Summary	(PTO-413)				
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date					
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  Paper No(s)/Mail Date  5) Notice of Informal Patent Application (PTO-152) 6) Other:						
- apor noto/mail Date 0/ Outer						

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## **DETAILED ACTION**

## Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 38-49, 74, 75, and 80-82, drawn to customizing medical protocols, classified in class 705, subclass 3.
  - II. Claims 50-58 and 76-78, drawn to delivering medication, classified in class 604, subclass 500.
  - III. Claims 59-73 and 79, drawn to medical monitoring, classified in class 600, subclass 301.
- 2. The inventions are distinct, each from the other because of the following reasons:
  The inventions are independent or distinct, each from the other because:

Inventions I, II and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination I has separate utility such as patient record management, subcombination II has separate utility such as introducing or removing material from body, and subcombination III has separate utility such as monitoring physiological data. See MPEP § 806.05(d).

3. Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different

classification and/or because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

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remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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## Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lena Najarian whose telephone number is 571-272-

7072. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Ł*/∕ In 7-20-06

SUPERVISORY PATENT EXAMINER